

§ 198-68.3. Energy Systems. [Added 10-20-2020 by L.L No. 38-2020]

- (A) Legislative intent. Battery Energy Storage Systems and Fuel Cell Power Systems [individually or collectively referred to in this section as an "Energy System(s)"] are allowed and authorized as provided for herein. These regulations are intended to encourage the use of environmentally friendly energy technologies in the Town, while fostering their integration with the foremost regard for the health, safety and welfare of residents, and without adverse impact upon any communities or natural resources.
- (B) All provisions of this chapter which are by their nature applicable to Energy Systems shall be applicable to Energy Systems, except to the extent they are inconsistent with the provisions of this section. In the event of a conflict between the provisions of this section and any other provisions of this chapter, the provisions of this section shall control.
- (C) Authorization and Criteria. Energy Systems are allowed as follows:
 - (1) In the I-1 Light Industry District, I-2 Light Industry District, I-3 Light Industry District, I-4 Light Industry District, I-5 General Industry District, and I-6 Generating Station District, Energy Systems are allowed as a principal or accessory building/structure and use, and where they are a principal building/structure and use, they may occupy a property with other principal buildings, structures or uses.
 - (2) In the C-6 General Business District, Energy Systems are allowed as an accessory building/structure and use. An Energy System may also be allowed as a principal building/structure and use in the C-6 General Business District, subject to -and upon the issuance of a special use permit by the Planning Board.
 - (3) Notwithstanding anything to the contrary in (C)(1) and (C)(2) of this subsection or elsewhere in this chapter, where an Energy System is in any of the authorized districts and is located on property which is two acres or more in size and within 200 feet of a residential property, a special use permit shall be required by the Planning Board.
 - (4) For the purpose of this section, an Energy System is an accessory building/structure and use if it occupies 2% or less of the lot and is solely used to generate or supply energy to another structure or building on the same lot. In all other circumstances, the Energy System shall be a principal building/structure and use.
- (D) Height, area and bulk regulations. Article IX of this chapter shall apply to Energy Systems, as modified by the following:
 - (1) The Energy System shall comply with the setbacks listed for principal buildings in § 198-55, except that in no event shall a setback of an Energy System be less than 10 feet.

- (2) The minimum setback shall be increased under the following conditions. When the property on which the Energy System is located is adjacent to or across the street from a property used for residential purposes, the minimum setback shall be increased to 35 feet, and a 10-foot wide evergreen screening buffer must be erected. In all other instances when the Energy System is on property with street frontage, the minimum setback shall be increased to 35 feet, and the Planning Board shall mandate that either a 10-foot wide evergreen screen buffer, or alternatively a 10-foot wide decorative landscaped buffer, be installed.
 - (3) An Energy System shall have a maximum lot coverage of no greater than 35%. In no event shall the maximum lot coverage of the Energy System(s) combined with the existing lot coverage exceed 90%.
 - (4) The maximum permitted height for an Energy System shall be 20 feet.
- (E) Additional regulations.
- (1) An Energy System shall be surrounded by fencing 8 feet in height, which may be located on the property line or set back as directed by the Planning Board.
 - (2) Removal of vegetation and trees shall be minimized to the maximum extent possible.
 - (3) All on-site utility lines and facilities for the Energy System shall be placed underground to the extent feasible.
 - (4) Lighting of the Energy System shall be limited to that minimally required for safety and operational purposes. In no event shall the Energy System violate the standards for outdoor lighting set forth in Chapter 143 of this Code.
 - (5) The noise generated by the Energy System shall be limited to that minimally required for safety and operational purposes. In no event shall the Energy System violate the standards for noise set forth in Chapter 141 of this Code.
 - (6) Energy Systems shall be positioned so that reflected light or noise are not projected onto neighboring properties, and screened to mitigate any significant negative impacts.
- (F) Approvals required. An Energy System shall require Site Plan approval, a building permit from the Department of Engineering Services, a Certificate of Occupancy or other certificate of approval from the Department of Engineering Services, and otherwise be in full accordance with any and all applicable federal, state, and local laws, rules and regulations. The property owner or operator of the Energy System shall apply to the Planning Board for site plan approval prior to the issuance of a building permit. The Planning Board shall review such plans and act thereon as specified herein and in Article XVII of this chapter, and no building permit may be issued until the plan has been approved. Where a Fuel Cell Power System is sought to be installed, a proof of concept letter, or other indicia of need, from the local electric company, shall be submitted to the Planning Board, acknowledging that the

Fuel Cell Power System will be interconnected to the utility grid to supply electricity to the electric corporation.

(G) Decommissioning Plan.

- (1) All applications for an Energy System shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal, of the Energy System. Prior to removal of an Energy System, a demolition permit for removal activities shall be obtained from the Building Department.
 - (2) The decommissioning plan shall ensure that the site will be restored to a useful, nonhazardous condition without delay, with details including, but not limited to, the following:
 - (a) The manner in which the Energy System will be decommissioned;
 - (b) Removal of aboveground and belowground equipment, structures and foundations;
 - (c) Restoration of the surface grade and soil after removal of equipment;
 - (d) Revegetation of restored soil areas with native seed mixes, excluding any invasive species; and
 - (e) The time frame for the completion of site restoration work.
 - (3) It shall be unlawful to fail to comply with a decommissioning plan.
- (H) Commissioning. The Commissioning of an Energy System shall be conducted by a New York State licensed professional engineer or registered architect, after the installation is complete but prior to a Certificate of Occupancy or other certificate of approval from the Department of Engineering Services being issued.
- (I) In the event that its construction has started but the Energy System has not been completed and become functional within 18 months of final site plan approval, the Town may send a notification to the property owner and/or operator of the Energy System that they must within 180 days of the service of the notification either complete the construction and installation or implement the decommissioning plan and restore the site. The Energy System must be completed and functional, or the decommissioning plan must be implemented and the site restored, within 180 days of the service of the notification, or such time as has been extended by the Director of the Department of Public Safety for good cause shown and upon satisfactory proof that there have been substantial efforts made towards compliance.
- (J) Upon cessation of operation of a fully-constructed and functioning Energy System for a period of one year, the Town may notify the property owner and/or operator of the Energy System that, within 180 days of the service of the notification, they must either resume the operation of the Energy System, or implement the decommissioning plan and restore the site. The property owner and/or operator of the Energy System shall either resume operations, or implement the

decommissioning plan and restore the site, within 180 days of the service of the notification by the Town, or such time as has been extended by the Director of the Department of Public Safety for good cause shown and upon satisfactory proof that there have been substantial efforts made towards compliance.

- (K) It shall be unlawful for any property owner or operator of an Energy System to fail to maintain the Energy System, or allow the Energy System to fall into disrepair.
- (L) No oversight or dereliction of duty on the part of the Town shall serve to legalize the maintenance, erection, construction, alteration, modification, replacement or removal of an Energy System, or to legalize the use and/or occupancy of any property, building or structure for the operation of any Energy System, if the work or activity is conducted in violation of this chapter or other applicable local, state and/or federal law, rule, ordinance or regulation.

Definitions taken from Sec. 198-2 (Definitions)

BATTERY ENERGY STORAGE SYSTEM

One or more devices, assembled together, and which through the use of batteries are capable of storing energy in order to supply electrical energy at a future time, not including a stand-alone 12 volt car battery or an electric motor vehicle. A battery energy storage system includes any building, structure, or cabinet containing some or all of its components, which shall further include any electronic management equipment that functions to protect the battery energy storage system and/or disconnect it in the event of potentially hazardous conditions.

[Added 10-20-2020 by L.L No. 38-2020]

Battery energy storage systems shall be classified as follows:

Battery Technology	Aggregate Capacity
Lead-acid batteries, all types	70 kWh and upwards
Nickel-cadmium batteries	70 kWh and upwards
Nickel metal hydride (Ni-MH)	70 kWh and upwards
Lithium-ion batteries	20 kWh and upwards
Flow batteries	20 kWh and upwards
Other battery technologies	10 kWh and upwards
Capacitor and other electrochemical energy storage systems	3 kWh and upwards

ENERGY SYSTEM

For the purpose of § 198-68.3, a reference to Energy System shall mean either or both of a Battery Energy Storage System or Fuel Cell Power System.

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